

**BISMARCK BOARD OF ADJUSTMENT
MEETING MINUTES
July 9, 2014**

The Bismarck Board of Adjustment met on July 9, 2014 at 4:00 p.m. in the 1st Floor Conference Room in the City-County Office Building, 221 North 5th Street. Chairman Marback presided.

Members present were Jennifer Clark, Ken Heier, Ken Hoff, Chris Seifert, Michael Marback and Jeff Ubl.

Staff members present were Brady Blaskowski – Building Official, Jason Hammes – Assistant City Attorney, Jenny Wollmuth – Planner and Hilary Balzum – Community Development Office Assistant.

MINUTES:

Chairman Marback asked for consideration of the minutes of the June 5, 2014 meeting of the Board of Adjustment.

MOTION: A motion was made by Mr. Heier and seconded by Mr. Hoff to approve the minutes of the June 5, 2014 meetings as distributed. With Board Members Clark, Heier, Hoff, Seifert, Ubl and Marback voting in favor, the minutes were approved.

VARIANCE FROM SECTION 14-04-01(4) OF THE CITY CODE OF ORDINANCES (RR-RESIDENTIAL)(FRONT YARD) AND SECTION 14-04-01(5) OF THE CITY CODE OR ORDINANCES (RR-RESIDENTIAL)(SIDE YARD) – 5538 FALCONER DRIVE (LOT 5, BLOCK 2, FALCONER ESTATES)

Chairman Marback stated the applicant was requesting a variance to reduce the required front yard setback along the east side of his property from forty (40) feet to twenty (20) feet and the required side yard setback along the north side of the property from fifteen (15) feet to ten (10) feet in order to construct an accessory building.

Chairman Marback then explained that this request was tabled at the June meeting of the Board of Adjustment with the request that the applicant make some effort to make adjustments to the placement of the accessory building. He said the original request was to reduce the front yard setback from forty feet to ten feet and the new request is to reduce it from forty feet to twenty feet and to reduce the side yard setback along the north side of the property from fifteen (15) feet to ten (10) feet.

Michael Rohrich, 5528 Falconer Drive, said he lives north of Mr. Neideffer and he has no concerns on his request. He said it will not affect his view or drainage and he has no reason to object the proposal. He said he feels all appropriate aesthetics will be maintained as well.

Ms. Clark asked if the building size can be decreased or if the accessory building will be built to the maximum allowed square footage.

Mr. Neideffer said it is an option but that he would like to build the maximum allowable square footage.

Mr. Ubl asked at what point on the property does the hill shown in the aerial photo start. Mr. Neideffer said it is close to where the proposed location of the accessory building is now and that they will need to bring in some fill dirt.

Mr. Hoff said he still has issues with the placement of the accessory building as the request did not change, the building just moved.

Mr. Seifert said the applicant does have a hardship because of the topography of the property and reducing the size of the accessory building would not change the topography. He would still need a variance from the setback requirement.

Ms. Clark said the lot is not ideal but the problems are of the owners making because of how they chose to place the house when it was originally constructed.

Mr. Neideffer said he needs a place for his boat and other items to help clean up his property. He said everything will fit if it is 1800 square feet and most of the neighbors are that size too.

MOTION: A motion was made by Mr. Hoff to deny the variance to reduce the required front yard setback along the east side of his property from forty (40) feet to twenty (20) feet and the required side yard setback along the north side of the property from fifteen (15) feet to ten (10) feet in order to construct an accessory building. The motion was seconded by Ms. Clark and with Board Member Hoff voting in favor of the motion and Board Members Clark, Heier, Seifert, Ubl and Marback opposing the motion, the motion failed.

MOTION: A motion was made by Mr. Ubl to approve the variance to reduce the required front yard setback along the east side of his property from forty (40) feet to twenty (20) feet and the required side yard setback along the north side of the property from fifteen (15) feet to ten (10) feet in order to construct an accessory building. The motion was seconded by Mr. Seifert and with Board Members Clark, Heier, Seifert, Ubl and Marback voting in favor of the motion and Board Member Hoff opposing the motion, the motion was approved and the variance request was approved.

VARIANCE FROM 14-03-03(7) OF THE CITY CODE OF ORDINANCES (R5 – RESIDENTIAL)(FRONT YARD) – 1018 CALVERT DRIVE (LOTS 11A & 12B, BLOCK 7, SONNET HEIGHT SUBDIVISION)

Chairman Marback stated the applicant was requesting a variance to reduce the required front yard setback along the northeast side of his property, adjacent to Niagara Drive, from twenty-five (25) to three (3) feet in order to construct an accessory building.

Chairman Marback asked how large of an accessory building the applicant wants to build. Mr. Ellwein said he would like to build it approximately 12 feet by 12 feet in order to avoid the retaining wall they had to install to help with drainage issues.

Mr. Hoff asked how tall the retaining wall is. Mr. Ellwein said it is about three feet but they still have problems with mud and water issues when it rains. He said they have had to fix their fence and their landscaping because they have been washed out. He said there is also a seven foot utility easement in the back yard that they need to avoid building on.

Mr. Heier said they need to be reluctant when modifying front yard setbacks so that people stay away from the street and more hardship needs to be proven.

Ms. Clark said she looked at the property and she would like to know how far it is from the west side of the fence to the house. Mr. Ellwein said it is approximately ten feet.

Mr. Hoff asked what types of materials the building will consist of. Mr. Ellwein said it will look similar to the house and it will be sided and shingled with a triangle truss and an eight foot side wall.

Mr. Hoff said they will have to cut into the slope on the property and then the shed will be visible over the fence and more drainage problems will ensue.

Mr. Heier said he thinks it should be built in the northwest corner of the property. Mr. Ellwein said they would have to dig out a lot more dirt in that corner and that area has a lot of standing water. He said they would like to build it so that the door faces south to keep water away from the door and the inside.

Mr. Hoff said there are not very many properties in the area with sheds yet. Mr. Ellwein said there are quite a few to the north that are closer to the size of a single stall garage. He said he gets a lot of run off from the neighbors properties and it gets worse the more houses are built.

Mr. Heier said he has a problem with setting a precedent and they are seeing more requests for encroachment into the front yard setbacks.

Mr. Hoff asked if Mr. Ellwein moves, could the new occupants of the house ask for a driveway on the other side of the property for access to the shed. Ms. Wollmuth said they could but that approval of it would be up to the City Traffic Engineer.

Ms. Wollmuth also provided the board members with comments submitted by one of Mr. Ellwein's neighbors in support of his request. These comments are attached as Exhibit A.

MOTION: A motion was made by Ms. Clark to approve the variance to reduce the required front yard setback along the northwest side of his property, adjacent to Niagara Drive, from twenty-five (25) to three (3) feet in order to construct an accessory building, with the condition that it does not exceed 14 feet wide and 12 feet long with an 8 foot side wall. The motion was seconded by Mr. Seifert. With Board Members Clark, Heier, Hoff, Seifert and Marback

voting in favor of the motion, the motion was approved and the variance request was approved.

OTHER BUSINESS

Mr. Marback said he noticed buildings that have gone up on South 22nd Street that appear to have parking issues and no variance was granted.

Mr. Blaskowski said the property did go through the site plan approval process and that the sight triangle was acceptable according the proposed site plan.

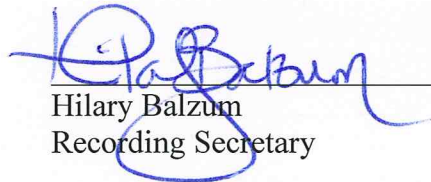
Ms. Wollmuth reminded the board members that their motions should include modifications to the findings in the staff report.

Chairman Marback said the strip mall near the north Walmart is changing ownership and asked if the common use parking agreement would stay with the property or change when ownership changes. Mr. Blaskowski said it would stay with the property regardless of the owner.


ADJOURNMENT

There being no further business, Chairman Marback declared the meeting of the Bismarck Board of Adjustment adjourned at 5:16 p.m. to meet again on August 7, 2014.

Respectfully Submitted,


Hilary Balzum
Recording Secretary

APPROVED:


Michael Marback, Chairman